

**ROBERT L. BURNETT**  
Claimant

**WAL-MART**

AND

**INSURANCE CO. STATE OF PENNSYLVANIA**  
Insurance Carrier

## ORDER

## ISSUES

Claimant suffered a work related injury to his foot. Surgery was recommended. The issue at the preliminary hearing concerned the payment of medical expenses for claimant's heart condition. Claimant wants respondent to pay for certain medical treatment related to his heart condition. It is not alleged that the heart condition was caused or aggravated by the work related accident. Rather, it is alleged that because the authorized physician would not operate to correct the foot injury until after the heart condition was treated, the treatment for the heart should be compensable under the Act. The Administrative Law Judge denied claimant's request regarding the expenses for the heart catheterization finding that the treatment for the heart condition was not necessary to cure and relieve the employee from the effects of the injury.<sup>1</sup>

Whether respondent is responsible for payment of the costs associated with the medical treatment for the heart condition is the only issue raised by claimant for review. Respondent raises the issue of the Appeals Board's jurisdiction to decide the medical treatment question on an appeal from a preliminary hearing order.

<sup>1</sup> K.S.A. 1996 Supp. 44-510(a).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Appeals Board has limited jurisdiction on appeals from preliminary hearing orders.<sup>2</sup> The Appeals Board may review allegations that the Administrative Law Judge exceeded his jurisdiction, including allegations that the Administrative Law Judge erred on jurisdictional issues listed in K.S.A. 1998 Supp. 44-534a. The issue presented by claimant in this appeal is not subject to review at this stage of the proceedings.<sup>3</sup>

**WHEREFORE**, the Appeals Board finds that it does not have jurisdiction to review the October 8, 1999 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish and that this appeal should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of January 2000.

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BOARD MEMBER

c: William L. Phalen, Pittsburg, KS  
H. Wayne Powers, Overland Park, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director

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<sup>2</sup> K.S.A. 1998 Supp. 44-551(b)(2)(A).

<sup>3</sup> It is noted that at page 6 of the Preliminary Hearing Transcript of Proceedings counsel for both claimant and respondent made statements to the Administrative Law Judge agreeing that this issue would not be appealable from a preliminary hearing order.